

REMARKS

The Official Action had objected to the amendment filed on July 23, 2003 under 35 USC §132, as it allegedly introduced new matter into the disclosure. The added material which is allegedly not supported by the original disclosure is indicated to be "wherein the treated fibrous web has a water absorption time of less than one minute".

Reconsideration of the above objection is respectfully requested for the following reasons.

It is initially pointed out that the last amendment was filed on May 19, 2004, and not on July 23, 2003, as is erroneously indicated in the Official Action. Moreover, there have been no amendments made to the specification since the application was originally filed on January 22, 2002. Accordingly, the objection to the disclosure under 35 USC §132 is improper. To the extent that the Official Action intended to object to the added language to independent claim 14, then the proper course of action would have been to reject such claim under 35 USC §112, first paragraph.

In any event, as was indicated during the telephonic conversation with Examiner Sharon Howard, the added language is clearly supported in the original specification, in the next to the last paragraph of page 6. Moreover, this clear support was previously mentioned on page 9, last paragraph of applicants' amendment of May 19, 2004.

Claims 14, 15, 18-22 and 25-26 were rejected under 35 USC §103(a) as being unpatentable over LUU et al. 5,871,763. The Official Action states that the primary reference teaches treating a substrate with a lotion composition comprising 10% or less water. The reference also teaches oils and discloses that the lotion composition can include an emollient, as well as other optional ingredients including a skin refreshing agent and a surfactant. The Official Action recognizes that LUU et al. do not specifically teach an oil-in-water emulsion. It is advanced however that absent a showing in criticality of the oil-in-water emulsion, there are no unexpected results, since the prior art permits water (column 4, lines 3-5) and discloses a variety of oils (column 7, lines 43-44 and column 12, lines 64-66). It is concluded that it would have been obvious to one of ordinary skill in the art to have used the composition by LUU et al., because the same teaches a lotion composition comprising water and an oil, a humectant and a surfactant which emulsifies the lotion, and which is useful for the purpose of imparting a smooth, lubricious and non-greasy feeling when the substrate is applied to the skin.

Reconsideration of the above rejection is respectfully requested for the following reasons.

As was previously argued, independent claim 14 recites a fibrous web treated with a lotion composition based on an oil-in-water emulsion, comprising

- (A) at least one oil,
 - (B) an oil-in-water emulsifier or oil-in-water emulsifier combination, and
 - (C) 6 to 35 weight % of water, based on the total weight of the lotion composition;
- wherein the treated fibrous web has a water absorption time of less than one minute.

Indeed, the primary object of the present invention is to provide a lotioned fibrous web which can be easily disposed of in a toilet, since it can be easily wet by water and has a short water absorption time, and consequently will not float on the water in the toilet bowl for too long a period of time.

Simultaneously, the envisaged lotion should impart softness and allow the transfer to the skin of the user, however without adversely affecting the strength properties of the fibrous web to which it is applied.

The above technical objects are solved by a fibrous web treated with an oil-in-water emulsion having the characteristic features set forth in independent claim 14.

It should be pointed out that water-in-oil emulsions and oil-in-water emulsions are easily distinguishable, since in the former, oil forms the outer phase, whereas in the latter, the outer phase is formed by water. The Official Action admits that LUU et al. fail to disclose or suggest oil-in-water emulsions.

Applicants have surprisingly found that the use of an outer water phase in an amount of 6 to 35 wt% enhances the wetting with water in a toilet without deteriorating the web strength to an unacceptable degree. Indeed, the lotioned fibrous web of applicants' independent claim 14 can be flushed down a toilet in a surprisingly short time when contrasted to prior art products (see the last paragraph of page 4 of the original specification).

In order to advance prosecution of this application, claim 14 was previously amended so as to recite that the treated fibrous web has a water absorption time of less than one minute. As was pointed out above, support for this language may be readily found in the next to the last paragraph on page 6 of the original specification.

Furthermore, the present application provides on page 39, a comparison between the water-in-oil type lotions of the prior art, and the herein claimed lotions. This comparison resulted in surprisingly low water absorption times on the order of three seconds, for the claimed lotioned tissue paper including the oil-in-water emulsion, whereas the water absorption time for the water-in-oil emulsions of the prior art were typically on the order of at least one hour.

With respect to the LUU et al. reference, although water contents of 10% or less are mentioned for the lotion, the patented reference contains very clear statements that water is

actually to be avoided. In this regard, the Primary Examiner's attention is directed to the last two lines of column 3, where it is stated that most preferably, the lotion is substantially free of water, that is anhydrous. Preferably water is not intentionally added to the lotion.

Thus, if water is present, this is due to ambient humidity or small amounts (accidentally) added with optional additives as is explained in the first lines of column 4.

Consequently, the LUU et al. reference clearly teaches away from the present invention.

In addition, it is explained with respect to small water contents, that the water forms droplets suspended in the matrix of "oily" ingredients (see column 4, lines 13-15). This is comparable to a water-in-oil emulsion. Apart from the fact that this is stated to be undesired, it is clear that even these low water content embodiments of the lotion are not capable of solving the primary technical object of the herein claimed invention. The matrix of oily ingredients will prevent a sufficient wetting with water, if a fibrous web treated therewith is disposed in a toilet.

This also follows from the above-mentioned comparative experiments provided on page 39 of the original specification. The water absorption times of a fibrous web treated with a lotion in accordance with the present invention are compared with the water absorption times of a fibrous web treated with water-in-oil

type lotions and water-free lotions. It was found that the fibrous web treated with a lotion in accordance with the present invention as recited in claim 14 shows a surprisingly short water absorption time of about three seconds, whereas the lotion of water-in-oil type or the water-free lotion led to a water absorption time on the order of one hour or more.

In summary, it is respectfully submitted that the LUU et al. reference simply fails to disclose or suggest any technique that would lead a person having ordinary skill in the art to the herein claimed lotioned fibrous web which exhibits the surprisingly low water absorption times of less than one minute, and simultaneously carries a lotion which shows good stability, the capacity to transfer lotion to the skin of the user, and a pleasant feel on the skin.

The Primary Examiner's indication of allowability with respect to claims 16 and 17 is sincerely appreciated. However, in view of the foregoing remarks, therefore, it is believed that all of the currently pending claims, namely claims 14-26, patentably distinguish from the applied LUU et al. reference.

An early indication of allowability with respect to claims 14-26 is accordingly earnestly solicited.

In the event that there are any questions relating to this response or to the application in general, it would be appreciated if the Examiner would telephone the undersigned

attorney concerning such questions so that the prosecution of this application may be expedited.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. \$1.16 or under 37 C.F.R.\$1.17.

Respectfully submitted,

YOUNG & THOMPSON



Benoit Castel, Reg. No. 35,041
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

BC/lk